

ATTACHMENT A:

LEASE AGREEMENT

LEASE FOR EMERGENCY COMMUNICATIONS SYSTEM

THIS LEASE FOR EMERGENCY COMMUNICATIONS SYSTEM (“**Lease**”) is made this ____ day of _____, 2017 (“**Effective Date**”), between the City of Redmond (“**City**”), a Washington municipal corporation, and King County, a political subdivision of the State of Washington (“**Lessee**”), and for the mutual benefits to be derived. City and Lessee may jointly be referred to herein as the “**Parties**” or individually, a “**Party**.”

The Parties hereby agree as follows:

Section 1. Property and Premises.

A. Location and Use of Property. City hereby leases to Lessee approximately five thousand five hundred twenty (5,520) square feet of that certain parcel of real property owned by the City, commonly referred to as the **EDUCATION HILL WATER RESERVOIR TANKS PROPERTY** (“**Property**”) for Lessee’s exclusive use for a wireless communication facility, as generally described and depicted on the attached Exhibits “B” and “C” (the “**Premises**”). The location of said Property is **10365 172ND Avenue NE, Redmond, Washington**, which is more particularly described in Exhibit "A" attached hereto and made part hereof by this reference.

Section 2. Authority Granted.

A. Lessee is authorized to use the Premises to install, construct, operate, maintain, repair, replace, upgrade, update, add to, modify and remove a communication facility, and associated equipment and all necessary supporting improvements (collectively, the “**Communication Facilities**”) for the Puget Sound Emergency Radio Network (“**PSERN**”) System as it is presently designed (“**Permitted Use**”), subject to Lessee obtaining development permits, authorizations, and necessary Government Approvals (as defined in Section 18 below). Lessee has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of its choice.

B. Subject to minor, non-substantive changes resulting from the Government Approval process, the tower(s), shelter(s), generator and fuel storage facility(ies) shall be generally in compliance with the written descriptions contained in Exhibit "B," and as illustrated in Exhibit "C", both of which exhibits are attached hereto and hereby incorporated in full by this reference. No use of additional land is provided for under this Lease. No substantive expansions, additions to or modifications of the Premises, or relocation of any of the described and depicted towers, shelter(s) and fuel storage facility(ies), or expansion or relocation of the access and utilities shall be permitted without first having received Government Approval, if necessary, and prior written authorization from the City, which authorization shall not be unreasonably withheld, conditioned or delayed.

Section 3. Rights Granted. Nothing contained within this Lease shall infringe upon the City's right to use the Property, excluding the Premises upon which Lessee's equipment and improvements are installed, for any purposes the City shall so desire; provided such use does not

unreasonably interfere with Lessee's access and use of the Premises for the limited purposes state herein. Further, nothing contained herein shall convey any right, privilege, title, or interest in the Property, other than the grant to Lessee the right to use and occupy a portion of the Property for the limited purposes stated herein.

Section 4. Installation and Removal of Property.

A. All portions of the Communication Facilities brought onto the Property by Lessee will be and remain Lessee's personal property during the Term (as defined in Section 13) of this Lease. City hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Communication Facilities or any portion thereof. During the Term of this Lease and upon termination, Lessee shall have the right to remove some or all of its personal property, whether or not attached to the Premises, provided that such may be removed without serious damage to the Property. All damage to the Property caused by removal of Lessee's personal property shall be promptly restored or repaired by Lessee.

B. All towers, poles, buildings, structures, landscaping and other improvements installed by Lessee, excluding transmission, reception and communications equipment, shall be deemed abandoned and become the personal property of the City if not removed by Lessee from the Property within forty-five (45) days after the effective expiration or termination date of this Lease, and Lessee shall within ten (10) business days of written request, execute any documents to further confirm conveyance of title if so requested by the City. Notwithstanding anything in this Lease to the contrary, Lessee shall have no obligation to remove from the Property any foundations, roads or underground utility cables and conduit installed by or at Lessee's direction.

C. During installation and removal of its Communication Facilities, Lessee shall comply with all noise suppression requirements of the City, recognizing that the improvements are adjacent to a residential and institutional area. Prior to the commencement of installation or removal construction, Lessee will obtain approval of its construction plans from the City, and, if necessary, obtain a Right-of-Way Use Permit, which approval should not be unreasonably withheld, conditioned, or delayed.

Section 5. Access.

A. Lessee shall have at all times the right of ingress and egress to and from the Premises, over and across the paved portions of City's Property to a public right of way and existing utility services adequate for Lessee's Permitted Use; provided however, that such right will not in any manner interfere with the City's normal and customary use of the Property, and this right of ingress and egress shall terminate concurrently with the termination of this Lease; provided that Lessee shall retain such access right after the expiration or termination of this Lease for the limited purpose of complying with Section 4 herein above.

B. Lessee shall have the right to construct a fence and other improvements to secure the Premises and to control access to the Premises. Other than in the event of an Emergency, as defined in Section 6, or for the sole purpose of determining compliance with this Lease, City may not access the Premises, and City may not allow any third party to access the Premises, without Lessee's consent and without a representative of Lessee being present at the time of such access. City shall

not allow the placement, construction, or installation of any equipment or materials in the Premises without Lessee's prior written consent, which consent may be withheld at Lessee's sole discretion.

C. The City shall, upon request of Lessee, provide a list of emergency telephone numbers known to the City of the other lessees at the Property.

Section 6. Emergency Work. In the event of any "**Emergency**" in which any of Lessee's Communication Facilities located in, above or under any public right-of-way or the Property breaks, or are damaged, or if Lessee's Premises is otherwise in such a condition as to immediately endanger the property, life, health or safety of any individual, upon receipt of written notice thereof, Lessee shall immediately take the proper emergency measures to repair the Communication Facilities, to cure or remedy the dangerous conditions for the protection of property, life, health or safety of individuals without first applying for and obtaining any permit or other authorization as required by this Lease. However, this shall not relieve Lessee from the requirement of notifying the City of the emergency work and obtaining any permits necessary for this purpose after the emergency work is commenced and/or completed. Lessee shall notify the City by telephone at **425-556-2500** immediately upon learning of the Emergency and shall apply for all required permits within a reasonable period of time thereafter.

Section 7. Dangerous Conditions, Authority for City to Abate.

A. Whenever construction, installation or excavation of the Communication Facilities authorized by this Lease has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining public right-of-way, street or public place, or endangers the public, street, public utilities or the Property, the City's Public Works Director or their designee, may direct Lessee, at Lessee's own expense, to take reasonable action to protect the public, adjacent public places, the Property, streets, public utilities and public ways. Such action may include compliance within a prescribed time; provided such time is reasonable under the circumstances.

B. In the event that Lessee fails or refuses to promptly take the actions directed by the City's Public Works Director, or their designee, as provided in this Section 7, or fails to fully comply with such directions, or if Emergency conditions exist which require immediate action, the City may enter upon the Premises and take such actions as are reasonably necessary to protect the public, the adjacent streets, public utilities and public ways, to maintain the lateral support thereof, or actions regarded as necessary safety precautions and shall give Lessee written notice of such actions taken as soon as is reasonably possible thereafter; and Lessee shall be liable to the City for costs thereof, which shall be reimbursed in accordance with the terms of Section 10.B herein below. The provisions of this Section shall survive the expiration, revocation, or termination by other means of this Lease.

Section 8. Consideration.

A. The 2017 annual rental fee ("**Annual Rent**") for the Premises shall be Twenty Seven Thousand and No/100 Dollars (\$27,000.00). If Lessee executes this Lease in a calendar year after 2017, Annual Rent will be the 2017 Annual Rent adjusted per each additional year by an annual rate of two percent (2%) or the Consumer Price Index [Seattle-Tacoma-Bremerton, WA – All Urban Consumers, Base 1982-84=100 (Index) for each year after 2017, as published by the

United States Department of Labor, Bureau of Statistics, whichever is greater.

B. Lessee's obligation to pay the Annual Rent shall commence on the date that (i) Lessee is issued a permit to commence with construction of the Communication Facilities on the Premises, or (ii) is twenty-four (24) months after the Effective Date of this Lease ("**Commencement Date**"), whichever is sooner. Lessee shall send City written notice of the Commencement Date within a reasonable period of time thereafter documenting the event.

C. Provided that City receives the first Annual Rent payment within forty-five (45) days after the Commencement Date, such amount shall not be deemed past due, Lessee shall not be in default, nor shall Lessee incur any late fees or interest thereon. Annual Rent for each year after the Commencement Date during the Term of this Lease shall be paid annually on or before the anniversary of the Commencement Date. Any Annual Rent payment received more than thirty (30) days after the due date shall include a late payment penalty at the lesser of one percent (1%) per month or an amount equal to the highest interest rate permitted by law, from the date due until paid in full.

D. Beginning on the first year anniversary of the Commencement Date, and on each anniversary date thereafter during the Term of this Lease, Annual Rent shall be increased by two percent (2%) or the percentage by which the Consumer Price Index [Seattle-Tacoma-Bremerton, WA –All Urban Consumers, Base 1982-84=100 (Index)] increased for the previous year (January through December) as published by the United States Department of Labor, Bureau of Statistics, whichever is greater or unless negotiated otherwise.

Section 9. Licenses, Fees, and Taxes. Prior to constructing any improvements to the Premises, Lessee, if not exempt, shall be responsible for obtaining any and all necessary Government Approvals, including submittal of applicable deposits or bonds therefor. Further, Lessee shall pay promptly, and before they become delinquent, all applicable taxes on the Premises, including any applicable leasehold excise taxes, and all public utility charges related to the operation of Lessee's Communication Facilities on the Premises. Notwithstanding the foregoing, City shall pay all regular real property taxes, assessments or levies assessed against the Property.

Section 10. Reimbursement of City Expenses.

A. Lessee shall be subject to all applications, reviews, inspections and permit fees associated with the City's activities undertaken through its regulatory authority granted under the laws of the City of Redmond and State of Washington.

B. In addition to the above, pursuant to the terms of Section 7.B above, Lessee shall promptly reimburse the City for any and all costs the City reasonably incurs in response to any Emergency involving the Premises. Such reimbursement shall be made in accordance with the following terms:

Lessee shall, within thirty (30) days after written demand, reimburse the City upon submittal by the City of an itemized billing by project of costs associated with actual, identified expenses reasonably incurred by the City in planning, constructing, installing, repairing, altering or maintaining any City facility as the result of the presence of Lessee's Communication Facilities,

unless otherwise addressed by application or user fees. Such costs and expenses shall include, but not be limited to, Lessee's proportionate cost of City personnel assigned to oversee or engage in any work as the result of the presence of the Communication Facilities on the Property. Such costs and expenses shall also include Lessee's proportionate share of any time spent reviewing construction plans in order to either accomplish the relocation of Lessee's Communication Facilities or the routing or rerouting of any utilities so as not to interfere with Lessee's Communication Facilities.

The time of City employees shall be charged at their respective rate of salary, including overtime, if applicable, plus benefits and overhead. Any other costs will be billed proportionately on an actual cost basis. All billings will be itemized so as to specifically identify the costs and expenses for each project for which the City claims reimbursement. A charge for the actual costs incurred in preparing the billing may also be included in said billing. The City shall provide Lessee with the City's itemization of costs reflected in the billing at the conclusion of each project. Lessee shall be entitled to a credit for amounts paid with its application.

Section 11. Utilities. Lessee shall obtain its own utility services from a servicing utility provider, at Lessee's sole cost and expense, by obtaining a separate meter for electricity or other utilities to be placed in Lessee's name.

The City agrees to provide rights for utilities and utility access, on, under and across the Property to serve Lessee's Communication Facilities, at such locations as shown in Exhibit "C" attached hereto. However, any change in location of any such access, from those shown in Exhibit "C" shall require the City's written approval, such approval by the City shall not be unreasonably withheld, conditioned or delayed.

Section 12. Term. The rights and obligations granted under this Lease shall commence upon the Effective Date hereof. The initial term of this Lease shall be twenty-five (25) years ("**Initial Term**") commencing upon the Effective Date.

Section 13. Extension. Lessee shall have the right to extend the Initial Term of this Lease for an additional three (3) periods of five (5) years each (each an "**Extension Term**"). Each Extension Term shall be upon the same terms, covenants and conditions as this Lease, and shall be exercised automatically as long as Lessee does not deliver to City a written notice of termination at least ninety (90) days prior to the end of the Initial Term or the end of the applicable Extension Term. The Initial Term, any Extension Terms, and any holdover term (pursuant to Section 24 herein below) shall hereinafter collectively be referred to as the "**Term.**"

Section 14. Business Purpose. Lessee shall conduct and carry on at the Premises only the Permitted Use, and shall not use the Premises for any additional or illegal purposes. Lessee agrees that no stock of goods will be carried or anything done in or about the Premises which will increase the City's rate of insurance during the Term of this Lease.

Section 15. Alterations. Except as provided in Section 2 hereof, Lessee shall not make any substantive expansions, material alterations, additions, relocating, modification or improvements to the Communication Facilities, and/or within the Premises, access or utility locations, without the prior review and written consent of the City. Written consent to such changes may require an amendment to this Lease. Lessee shall submit to City a written request for any such changes and

any supplemental materials, including Governmental Approval documentation as may be requested for City's evaluation and approval, which approval shall not be unreasonably withheld, delayed or conditioned. The City shall endeavor to respond to the request within ninety (90) days after receipt of all requested materials.

Section 16. Lights, Signs and Symbols. All lights, signs or symbols placed on the Premises by Lessee shall be subject to the prior approval of the City, unless required by applicable Laws (as defined in Section 17 below). In the event Lessee shall place lights, signs or symbols on the Premises where they are visible from the street and not acceptable to the City, the City may demand the immediate removal of such lights, signs or symbols unless such lights, signs or symbols are required by applicable Laws. The refusal of Lessee to comply with such demand within a period of fifteen (15) business days will constitute a default of this Lease, thereby entitling the City to exercise any available legal remedy pursuant to Section 25. Any lights, signs or symbols placed upon the Premises shall be so placed upon the understanding and agreement that Lessee will remove the same at the termination of this Lease and repair any resulting damage or injury to the Premises, in compliance with the terms of Section 4 herein above.

Section 17. Compliance with All Applicable Laws and Maintenance.

A. Lessee agrees to comply with all applicable present and future federal, state and local laws, ordinances, rules and regulations ("**Laws**") required in connection with its construction and operation of the Communication Facilities and its use of the Premises.

B. Lessee shall, at its own expense, maintain the Premises in a safe condition, in good repair and in a manner reasonably acceptable to the City. Additionally, Lessee shall keep the Premises free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or any interference with City's services located on or adjacent to the Property. Lessee shall have sole responsibility for the maintenance, repair and security of the Communication Facilities, and shall keep the same in good repair and condition during the Term.

Section 18. Permits and Licenses.

A. This Lease is contingent upon Lessee obtaining all required local, state and federal governmental permits, approvals and licenses ("**Government Approvals**") to locate and operate the Communication Facilities on the Premises and offer Lessee's proposed services. Lessee shall not commence construction of its Communication Facilities until issuance of all necessary Government Approvals. If Lessee is unable to obtain or maintain such necessary Government Approvals, Lessee may cancel this Lease and obtain a pro rata refund of any Annual Rent paid, without further obligation, by giving thirty (30) days prior written notice to the City.

B. City agrees to reasonably assist Lessee with such applications and/or submissions necessary to obtain Governmental Approvals to construct and maintain the Communication Facilities within the Premises.

C. Except as otherwise provided in this Lease, City makes no representation or warranty with respect to the condition of the Premises and the City shall not be liable for any latent

or patent defect of the Premises.

Section 19. Cancellation. Lessee retains the right to cancel this Lease for any reason whatsoever upon ninety (90) days written notice to City. In such event, all prepaid prorated Annual Rent shall be refundable to Lessee within sixty (60) days of the effective termination date, and Lessee's rights and obligations shall cease, except for removal as specified in Section 4 (Installation and Removal of Property) and Section 16 (Lights, Signs and Symbols), restoration as specified in Section 36 (Restoration of Property), and as specified in Section 22 (Indemnification and Waiver) and Section 21 (Insurance).

Section 20. Interference.

A. The City may have previously entered into leases with other lessees (“**Senior Lessees**”) for their equipment and antenna facilities on the Property. Lessee acknowledges that the City is leasing the Property for the purposes of transmitting and receiving emergency and non-emergency communication signals therefrom. The City, however, is not in any way responsible or liable for any interference with Lessee's use of the Premises caused by the use and operation of City-operated transmitting and receiving communication signals or those of any Senior Lessees. Where there are existing Senior Lessees on the Property, City will provide Lessee with a list of all existing Senior Lessees on the Property to allow Lessee to evaluate and avoid the potential for interference. In the event that any Senior Lessee’s activities or communication equipment existing as of the Effective Date of this Lease interfere with Lessee's use of the Premises, and Lessee cannot work this interference out with the other Senior Lessees, Lessee may, upon thirty (30) days written notice to City, terminate this Lease and restore the Premises to its original condition, reasonable wear and tear excepted and subject to complying with Section 19 and the Sections referenced therein. In such event, Lessee shall be entitled to a pro rata refund of all pre-paid Annual Rent. Lessee shall cooperate with all other users to identify the causes of, and work towards the resolution of, any interference problems. In addition, Lessee agrees to eliminate any interference caused to City’s facilities, at Lessee's own expense and without imposition of extra filters on City equipment.

B. The City has the right to grant rights for use of other communication facilities on the Property, excluding the Premises, and the City agrees that it will use its reasonable efforts to protect Lessee from interference from subsequent users of the Property through appropriate lease terms.

C. For the purposes of this Lease, “**interference**” includes harmful interference as defined by the Federal Communication Commission (“**FCC**”), and any use on the Property or surrounding property that causes physical obstruction with the use of the Premises.

Section 21. Insurance.

A. Except as provided in Subsection 21.C below, Lessee shall procure and maintain for the Term of the Lease, insurance against claims for injuries to persons, death or damages to property which may arise from or in connection with the exercise of the rights, privileges and authority granted hereunder to Lessee, its agents, representatives or employees. Lessee shall provide an insurance certificate, together with an endorsement copy listing the City, its officers, elected officials, agents, employees, representatives, engineers, consultants and volunteers as Primary Non-Contributory additional insured, under the Commercial General Liability, Automobile Liability and

Comprehensive Form policies and shall provide to the City for its inspection prior to the commencement of any work or installation of the Communication Facilities pursuant to this Lease, such insurance certificate which shall evidence:

1. Commercial general liability insurance, inclusive of umbrella, written on an occurrence basis with limits not less than:

- (i) \$5,000,000.00 for bodily injury or death to each person;
- (ii) \$5,000,000.00 for property damage resulting from any one accident;
and
- (iii) \$5,000,000.00 for all other types of liability.

2. Automobile liability for owned, non-owned and hired vehicles with a limit of \$5,000,000.00 for each person and \$5,000,000.00 for each accident;

3. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$2,000,000.00; and

4. Comprehensive Form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than \$2,000,000.00.

B. The liability insurance policies required by this Section shall be maintained by Lessee throughout the Term of this Lease, and such other period of time during which Lessee is operating without a lease agreement, or is engaged in the removal of its Communication Facilities. Failure to maintain such insurance shall be grounds for Lease termination. Any deductibles or self-insured retentions must be declared to and approved by the City. Payment of deductibles and self-insured retentions shall be the sole responsibility of Lessee and must be declared to and approved by the City. The insurance certificate required by this Section shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Lessee's insurance shall be primary insurance with respect to the City, its elected and appointed officers, officials, employees, agents, representatives, engineers, consultants, and volunteers. Any insurance maintained by the City, its elected and appointed officers, officials, employees, consultants, agents, representatives, engineers and volunteers shall be in excess of Lessee's insurance and shall not contribute with Lessee's insurance.

C. Self Insurance.

1. In lieu of the aforementioned insurance coverage, Lessee maintains a fully funded self-insurance program for the protection and handling of the Lessee's liabilities including injuries to persons and damage to property.

2. City acknowledges, agrees and understands that Lessee is self-funded for all of its liability exposures. Lessee agrees, at its own expense, to maintain, through its fully funded self-insurance program, coverage for all of its liability exposures for this Lease. Lessee agrees to provide City with at least thirty (30) days prior written notice of any material change in Lessee's self-insurance program and will provide City with a letter of self-insurance as adequate proof of

coverage. City further acknowledges, agrees and understands that Lessee does not purchase Commercial General Liability insurance and is a self-insured governmental entity; therefore, Lessee does not have the ability to name City as an additional insured; however, Lessee agrees to defend and indemnify City in substantially the same manner as a standard insurance policy which includes the City as a Primary Non-Contributory Additional Insured.

D. All Risk Property Insurance. City shall carry "All Risk" property insurance in an amount equal to the full replacement value of its improvements on the Property. Lessee shall maintain "All Risk" property insurance in an amount equal to the full replacement value of all of the Communication Facilities and other personal property located on the Premises or shall self-insure the Communication Facilities and other personal property on the Premises.

E. Waiver of Subrogation. Notwithstanding any language to the contrary contained in this Lease, City and Lessee agree that they shall not make a claim against or seek recovery from the other for any loss or damage to their property, or the property of others, resulting from fire or other hazards covered by fire insurance or required to be covered under this Lease and each hereby releases the other from any such claim or liability regardless of the cause of such loss.

Section 22. Indemnification and Waiver.

A. Lessee hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its elected and appointed officers, officials, employees, agents, engineers, consultants, volunteers and representatives from any and all claims, costs, judgments, awards or liability to any person arising from injury, sickness, or death of any person or damage to property:

1. For which the negligent acts or omissions of Lessee, its agents, servants, officers or employees in performing the activities authorized by this Lease are the sole or partial cause;
2. By virtue of Lessee's exercise of the rights granted herein;
3. By virtue of the City's permitting Lessee's use of the City's public ways or other public property;
4. Based upon the City's inspection or lack of inspection of work performed by Lessee, its agents and servants, officers or employees in connection with work authorized on the Premises, or Property over which the City has control, pursuant to this Lease or pursuant to any other permit or approval issued in connection with this Lease;
5. Arising as a result of the negligent acts or omissions of Lessee, its agents, servants, officers or employees in barricading, instituting trench safety systems or providing other adequate warnings of any excavation, construction, or work upon the Communication Facilities, in any public way, or other public place in performance of work or services permitted under this Lease; and
6. Based upon radio frequency emissions or radiation emitted from the

Premises, regardless of whether Lessee's Communication Facilities comply with applicable federal statutes and/or FCC regulations related thereto.

B. Lessee's indemnification obligations pursuant to Subsection A of this Section shall include assuming potential liability for actions brought by Lessee's own employees and the employees of Lessee's agents, representatives, contractors, and subcontractors even though Lessee might be immune under Title 51 RCW from direct suit brought by such an employee. It is expressly agreed and understood that this assumption of potential liability for actions brought by the aforementioned employees is with respect to claims against the City arising by virtue of Lessee's exercise of the rights set forth in this Lease. The obligations of Lessee under this Subsection B have been mutually negotiated by the Parties hereto, and Lessee acknowledges that the City would not enter into this Lease without Lessee's waiver thereof. To the extent required to provide this indemnification and this indemnification only, Lessee waives its immunity under Title 51 RCW as provided in RCW 4.24.115.

C. Inspection or acceptance by the City of any work performed by Lessee at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Provided that Lessee has been given prompt written notice by the City of any such claim, said indemnification obligations shall also extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation. In the event any action or proceeding shall be brought against the City resulting from Lessee's operations hereunder, Lessee shall, at Lessee's sole cost and expense, resist and defend the same provided, however, that Lessee shall not admit liability in any such matter on behalf of the City without the written consent of the City. Nothing herein shall be deemed to prevent City from cooperating with Lessee and participating in the defense of any litigation with City's own counsel. Lessee shall pay all reasonable expenses incurred by City in response to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorneys' fees and shall also include the reasonable value of any services rendered by the City Attorney's office, and the actual expenses of City's agents, employees, consultants and expert witnesses and disbursements and liabilities incurred by City in connection with such suits, actions or proceedings. The City has the right to defend or participate in the defense of any such claim, and has the right to approve any settlement or other compromise of any such claim.

D. In the event that Lessee refuses the tender of defense in any suit or any claim, said tender having been made pursuant to this Section, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the Parties shall agree to decide the matter), to have been a wrongful refusal on the part of Lessee, then Lessee shall pay all of the City's costs for defense of the action, including all reasonable expert witness fees, reasonable attorneys' fees, the reasonable costs of the City, and reasonable attorneys' fees of recovering under this Subsection.

E. The provisions of this Section 22 do not apply to claims, costs and liabilities that are subject to Section 39. The provisions of this Section 22 shall survive the expiration, revocation, or termination of this Lease.

Section 23. Covenant Not to Bring Suit. The rents, fees and other in-kind compensation, if any, provided for in this Lease are a result of mutual negotiations between the Parties. Each Party acknowledges and covenants not to bring suit against the other with respect to the amount of said

rents, fees or in-kind compensation seeking to recover all or any portion of the same, and hereby waives any and all such claims against the other Party and its elected or appointed officials.

Section 24. Holdover. At such time as this Lease expires, or is revoked or terminated for any cause, Lessee shall remove the Communication Facilities and other personal property from the Premises in accordance with Section 4 of this Lease. If Lessee shall, with the written consent of the City, holdover after the expiration of all of the Extension Terms, the holdover tenancy shall be on a month-to-month basis, which tenancy may be terminated by the provision of thirty (30) days advance written notice by the Party seeking termination of the tenancy to the other Party. During such tenancy, Lessee agrees to be bound by all of the terms, covenants, agreements and conditions as herein specified, so far as applicable.

Section 25. Revocation, Forfeiture, Default and Termination.

A. If Lessee should fail to remedy any default (1) in the payment of any sum due under this Lease within twenty (20) days after receipt of written notice, or (2) in the keeping of any other term, covenant or condition herein with all reasonable dispatch, within a reasonable period of time no sooner than forty-five (45) days after receipt of written notice within which time frame said default has not been cured, then in any of such event(s), City shall have the right, at its option, in addition to, and not exclusive of, any other remedy City may have by operation of law, terminate this Lease upon written notice to Lessee. In such event(s), Lessee shall only be responsible for Annual Rent and utilities through the date of termination.

B. If City should fail to remedy any default in the keeping of any term, covenant or condition herein with all reasonable dispatch, within a reasonable period of time no sooner than forty-five (45) days after receipt of written notice within which time frame said default has not been cured, then in any of such event(s), Lessee shall have the right, at its option, in addition to and not exclusive of any other remedy Lessee may have by operation of law, to remedy City's failure to perform or terminate this Lease upon written notice to City. In such event(s): 1) City shall be responsible for any costs incurred by Lessee in remedying City's default, and/or 2) Lessee shall only be responsible for Annual Rent and utilities through the date of termination.

C. Either Party may elect, in lieu of the remedies set forth herein and without any prejudice to any of its other legal rights and remedies, to obtain an order from the superior court having jurisdiction compelling the defaulting Party to comply with the provisions of this Lease and to recover reasonable damages, rent, attorney and collection fees, court costs, attorney's fees upon appeal of any judgment or ruling, and other costs and expenses incurred by the non-defaulting Party by reason of the defaulting Party's failure to comply.

Section 26. Non-Release of Obligations upon Termination. No termination, default, forfeiture, or cancellation of this Lease shall release Lessee from any liability or obligation with respect to any matter occurring prior to such termination, default, forfeiture or cancellation, nor shall termination, default, forfeiture or cancellation release Lessee from its obligation and liability as described in Section 4 herein to remove the Communication Facilities and restore the Premises to its original condition, reasonable wear and tear excepted.

Section 27. City's Removal of Lessee's Property. In the event that this Lease is revoked,

forfeited, or otherwise terminated and Lessee fails to remove the Communication Facilities from the Premises in accordance with Section 4 herein above, the City shall have the right, but not the obligation, after giving thirty (30) days written notice to Lessee, to prohibit access to, secure and/or remove therefrom all of Lessee's Communication Facilities, and may store the same in any place selected by the City, including, but not limited to, a public warehouse, at the expense and risk of Lessee. If the City removes Lessee's Communication Facilities as provided under this Section, it shall immediately provide Lessee written notice of such removal, and written notice of Lessee's right to redeem the Communication Facilities after payment of any sums due the City, including the City's costs of removal and storage. If, within thirty (30) days of such written notice, Lessee does not redeem the Communication Facilities, the City shall have the right to sell such stored property. If such property is sold as provided herein, the proceeds of such sale shall be applied first to the cost of the sale, second to the payment of the charges for storage, if any, and third to the payment of any other sums of money which may then be due from Lessee to the City under any terms hereof. The balance, if any, shall be paid to Lessee.

Section 28. Fire and Other Casualty. In the event the Communication Facilities or Premises are destroyed or damaged by fire, earthquake or other casualty to such an extent as to render the same untenable by Lessee in whole or in a substantial part, Lessee shall have the option to cancel this Lease upon thirty (30) days written notice to City and in such event, all prepaid prorated Annual Rent shall be refundable to Lessee within sixty (60) days of the effective termination date, and Lessee's rights and obligation shall cease, except for removal as specified in Section 4 (Installation and Removal of Property) and Section 16 (Lights, Signs and Symbols), restoration as specified in Section 36 (Restoration of Property), and as specified in Section 22 (Indemnification and Waiver) and Section 21 (Insurance). The City shall have no obligation to repair any damage to any portion of the Premises. If Lessee believes it is feasible to relocate the Communication Facilities to a different location on the Property, Lessee may request that this Lease be amended to relocate the Premises. The City agrees to consider Lessee's request in good faith, but shall retain the right to approve or deny the request in the City's sole and absolute discretion. If Lessee requests that the City provide an interim site for Lessee to locate temporary, mobile communication facilities and equipment as necessary to continue service during repair of the Premises or during any agreed-upon relocation, the City will consider Lessee's request in good faith, but shall retain the right to approve or deny the request in the City's sole discretion. If relocation of the Premises is agreed to, Lessee shall prepare a survey for the relocated Premises and the survey will replace Exhibit "C" attached hereto. City agrees that the Annual Rent shall be abated in proportion to Lessee's ability to use the Premises, unless Lessee places temporary communication facilities on the Property.

Section 29. Condemnation. In the event of the taking of all of the Premises, or a portion sufficient in Lessee's sole determination to render the Premises unsuitable for Lessee's use, by condemnation or otherwise by any governmental, state or local authority, this Lease shall be deemed cancelled as of the time of taking possession by said authority. Lessee shall have no claim to nor shall it be entitled to any portion of any condemnation or other award for damages to the Premises. However, Lessee shall have the right to pursue its own separate award from the condemning authority for depreciation to and cost of removal or relocation of structures or equipment on the Premises. In the event of a partial taking that does not result in the cancellation of this Lease, City agrees that the Annual Rent shall be abated in proportion to the Premises taken.

Section 30. Modification, Waiver. No waiver, alteration, amendment or modification of

any of the provisions of this Lease shall be binding unless in writing and signed by duly authorized representatives of both Parties. City represents that amendments to this Lease may be approved and executed by the Mayor on behalf of the City.

Section 31. Assignment and Sublet.

A. This Lease shall run with the Property and shall be binding on and inure to the benefit of the Parties, their respective successors, personal representatives and permitted assigns. Lessee will not assign or transfer this Lease or sublet all or any portion of the Premises without the prior written consent from the City, which consent will not be unreasonably withheld, delayed, or conditioned; provided, however, City may inquire into the qualifications and financial stability of a potential assignee or sublessee and reasonably request any information related to such inquiry and may also condition such approval upon the financial, legal and technical expertise of a proposed assignee or sublessee and upon the resolution of any compliance obligation under the Lease.

B. Lessee may assign or sublet, without the City's prior written consent, to any person or entity controlling, controlled by or under common control with Lessee or to any person or entity that acquires substantially all of the stock or assets of Lessee. Notwithstanding anything in this Lease to the contrary, Lessee may assign its interest in this Lease, without the City's consent, to that governmental non-profit entity or to any entity existing now or in the future that will be responsible for the operation, maintenance, management, updating and upgrade or replacement of the PSERN System as authorized by law.

C. In the event of an assignment, the assignee shall assume all liability of the assignor and the assignor will be relieved of all future performance, liabilities and obligations under this Lease to the extent of such assignment.

Section 32. Non-Waiver of Breach. The failure of either Party to insist upon strict performance of any of the covenants and agreements of this Lease, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such covenant, agreement or option, or any other covenant, agreement or option.

Section 33. Cancellation of Prior Leases and Agreements. This Lease supersedes all previous leases and agreements between the Parties with respect to the subject matter hereof, and any such agreements are hereby cancelled.

Section 34. Notice. Any notice or information required or permitted to be given to the Parties under this Lease shall be sent by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to the Parties at the below found addresses, unless otherwise specified. The notice will be effective when properly sent and received, refused or returned undelivered.

If to the City:

If mailed:

City of Redmond
Attn: Public Works Director MS: 4NPW
PO Box 97010
Redmond, WA 98073-9710

If delivered:

City of Redmond
Attn: Public Works Director MS: 4NPW
15670 NE 85th Street
Redmond, WA 98052

If to Lessee:

King County Facilities Management Division
Real Estate Services
Attention: Leasing Supervisor
Re: Education Hill PSERN Lease
500 Fourth Avenue, Suite 830
Seattle, WA 98104

With a copy to:

King County Facilities Management Division
Director's Office
Attention: Gail Houser
RE: Education Hill PSERN Lease
500 Fourth Avenue, Suite 800
Seattle, WA 98104

And with a copy to:

King County
Emergency Radio Communications Division - KCIT
Attention: Marlin Blizinsky
RE: Education Hill PSERN Lease
401 Fifth Avenue, Suite 600
Seattle, WA 98104

Section 35. Attorneys' Fees. If a suit or other action is instituted in connection with any controversy arising out of this Lease, the prevailing Party shall be entitled to recover all of its costs and expenses, including such sum as the court may judge reasonable for attorneys' fees, costs, expenses, and attorney's fees upon appeal of any judgment or ruling.

Section 36. Restoration of Property. Lessee shall, after installation, construction, relocation, maintenance, removal, or repair of its Communication Facilities, restore the Premises and any other public and private property improvements, fixtures, structures, facilities, rights-of-way and the Property that was disturbed or damaged by such work, to at least the same condition as existed immediately prior to any such installation, construction, relocation, maintenance, removal, or repair of the Communication Facilities, reasonable wear and tear, and replacement of trees or other

landscaping that was removed during the construction process, excepted. The Public Works Director or their designee shall have final approval, not to be unreasonably withheld, delayed or conditioned, of the condition of the Property after restoration. All survey monuments which are to be disturbed or displaced by such work shall be referenced, replaced and restored, as per WAC 332-120, as the same now exists or may hereafter be amended, and per all pertinent federal, state and local standards and specifications, including, but not limited to, the City of Redmond's 2009 Benchmark Monument Record which has a precision of survey second order first class specification. The provisions of this Section shall survive the expiration, revocation, or termination by other means of this Lease. All work by Lessee pursuant to this Section shall be performed in accord with City of Redmond Public Works Construction standards and warranted for a period of one (1) year.

Section 37. Severability. Each term and condition of this Lease is an integral part of the consideration given by each Party. If any section, sentence, clause or phrase of this Lease should be held to be invalid or unconstitutional by a court of competent jurisdiction, either Party may request that the Parties negotiate suitable replacement terms by notifying the other Party within thirty (30) days of a final, non-appealable ruling by such court. If neither Party requests negotiation within the thirty (30) day time frame, the section, sentence, clause or phrase held to be invalid or unconstitutional shall be deemed severable from the remaining terms of this Lease and the Lease shall continue under the remaining terms. If one of the Parties requests negotiation and the Parties are able to reach agreement on suitable replacement terms within one hundred eighty (180) days of the date of a final, non-appealable decision of the court, the Parties shall execute an amendment to this Lease to include the agreed-upon replacement terms. If one of the Parties requests negotiation and the Parties are not able to reach an agreement on suitable replacement terms within the one hundred eighty (180) day time period, then the Party requesting negotiation may terminate this Lease by giving the other Party one (1) years' written notice of such termination.

Section 38. Entire Agreement. Except for the terms and conditions of any applicable Laws, and any required Government Approvals, this Lease constitutes the entire understanding and agreement between the Parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the Parties upon execution of this Lease.

Section 39. Hazardous Substances.

A. The City represents that it has no actual knowledge of any presence, deposit or release of any "**Hazardous Substances**" (as defined below) on the Premises in soil, groundwater, or other environmental media, or in violation of applicable laws. Lessee shall not introduce or use any Hazardous Substances on the Premises in violation of any applicable law or regulation, nor shall Lessee allow any of its agents, contractors or any other person under its control to do the same.

B. Lessee will be solely responsible for and will defend, indemnify, and hold the City, its agents, and employees harmless from and against any and all direct claims, costs, and liabilities, including reasonable attorneys' fees and costs, to the extent arising out of Lessee's use, storage, or disposal of Hazardous Substances on the Property, or the use, storage, or disposal of such substances by Lessee's agents, contractors, or other persons acting under Lessee's control.

C. The City will be solely responsible for and will defend, indemnify, and hold Lessee,

its agents, and employees harmless from and against any and all direct claims, costs, and liabilities, including reasonable attorneys' fees and costs, to the extent arising out of the City's use, storage or disposal of Hazardous Substances on the Property, or the use, storage, or disposal of such substances by the City's agents, contractors, or other persons acting under the City's control.

D. For purposes of this Lease, "**Hazardous Substances**" shall mean any substance subject to regulation under the Washington Hazardous Waste Management Act (Ch. 70.105 RCW) and implementing regulations, any "hazardous substance" under the Washington Model Toxics Control Act (Ch. 70.105D RCW) and implementing regulations, and any "hazardous substance" or "hazardous waste" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 USC §§ 9602 et seq.) and implementing regulations, as these laws are amended from time to time; underground storage tanks, whether empty, filled or partially filled with any substance; asbestos; urea formaldehyde foam insulation; PCBs; and any other substance, waste, material or chemical deemed or defined as hazardous, toxic, a pollutant, contaminant, dangerous or potentially dangerous, noxious, flammable, explosive, or radioactive, the removal of which is required or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling, or shipment of which is restricted, prohibited, regulated or penalized by any federal, state, county, municipal or other local governmental statute, regulation, ordinance or resolution as these laws are amended from time to time.

Section 40. Miscellaneous.

A. City and Lessee respectively represent that its signatory is duly authorized and has full right, power and authority to execute this Lease.

B. This Lease shall be construed in accordance with the laws of the State of Washington.

C. Section captions and headings are intended solely to facilitate the reading thereof. Such captions and headings shall not affect the meaning or interpretation of the text herein.

D. Where the context so requires, the singular shall include the plural and the plural includes the singular.

E. If the methods of taxation in effect at the Commencement Date of the Lease are altered so that in lieu of, or as a substitute for, or in addition to, any portion of the property taxes and special assessments, if any, now imposed on equipment, there is imposed a tax upon or against the Annual Rent payable by Lessee to City, Lessee shall also pay those amounts.

F. Lessee shall be responsible for obtaining all other necessary approvals, authorizations and agreements from any Party or entity and it is acknowledged and agreed that the City is making no representation, warranty or covenant whether any of the foregoing approvals, authorizations or agreements are required or have been obtained by Lessee from any person or entity.

G. This Lease may be enforced at both law and equity.

H. This Lease may be executed in duplicate counterparts, each of which shall be deemed an original.

I. Lessee acknowledges that it, and not the City, shall be responsible for the Premises and Communication Facilities' compliance with all marking and lighting requirements of the Federal Aviation Administration ("FAA") and the FCC. Lessee shall indemnify and hold the City harmless from any fines or other liabilities caused by Lessee's failure to comply with such requirements. Should the Lessee or the City be cited by either the FCC or FAA because the Premises or the Lessee's Communication Facilities are not in compliance, and should Lessee fail to cure the conditions or noncompliance within the timeframe allowed by the citing agency, the City may terminate this Lease immediately upon written notice to Lessee.

J. When used in this Lease to describe the City's authority to condition an approval, the word "**condition**" refers to the City acting in its capacity as the lessor under this Lease and not to the City acting in its regulatory capacity as a government agency with jurisdiction over such regulatory matters. Nothing in this Lease is intended to limit the City's regulatory authority in any way and all such regulatory authority is reserved in full.

Section 42. Representations: City represents and agrees that: (i) City solely owns the Property and has the full right, power and authority to grant this Lease to Lessee and (ii) as long as Lessee is not in default beyond any applicable cure period, City grants to Lessee sole, actual, quiet and peaceful use, enjoyment and possession of the Premises.

Section 43. Non-Discrimination. Lessee and City, for themselves, their successors, and assigns, as a part of the consideration hereof, do hereby covenant and agree to comply with all civil rights and anti-discrimination requirements of federal, state or local laws applicable to the Property, including, without limitation, Chapter 49.60 RCW. Lessee and City shall not discriminate on the basis of race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification, in the employment or application for employment or in the administration or delivery of services or any other benefits under King County Code Ch. 12.16.125. Lessee shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit such discrimination. These laws include, but are not limited to, Chapter 49.60 RCW, and Titles VI and VII of the Civil Rights Act of 1964. Any violation of this provision shall be considered a default of this Lease and shall be grounds for cancellation, termination, or suspension, in whole or in part, of the Lease and may result in ineligibility for further agreements between the Parties hereto.

Section 44. Memorandum of Lease. Lessee may record a memorandum of this Lease, at Lessee's sole cost and expense. Upon expiration or termination of this Lease, Lessee shall record an instrument removing the Memorandum of Lease from the Premises, at Lessee's sole cost and expense.

DATED this _____ day of _____, 201____.

CITY OF REDMOND,
a Washington municipal corporation

KING COUNTY, a political subdivision of the
State of Washington

By: _____
John Marchione
Its: Mayor _____

By: _____
Anthony O. Wright
Its: Director, Facilities Management Division _____

Date: _____

Date: _____

ATTEST/AUTHENTICATED:

APPROVED AS TO FORM:

MICHELLE M. HART, CITY CLERK

BUSCH LAW FIRM PLLC

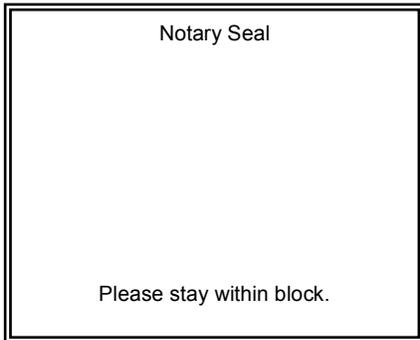
APPROVED AS TO FORM:

JAMES E. HANEY, CITY ATTORNEY

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that John Marchione is the person who appeared before me, and that he acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Redmond to be the free and voluntary act of such Party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2017.

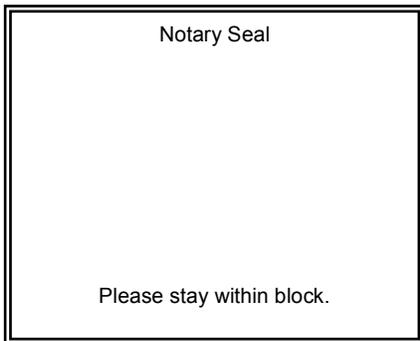


Notary Signature: _____
Printed Name: _____
Notary Public for the State of Washington
Residing In: _____
My Commission Expires: _____

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Anthony O. Wright is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Director, Facilities Management Division of King County, to be the free and voluntary act of such Party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 201____.



Notary Signature: _____
Printed Name: _____
Notary Public for the State of _____
Residing In: _____
My Commission Expires: _____

EXHIBIT "A"
to
LEASE FOR EMERGENCY COMMUNICATIONS SYSTEM

Description of Property

THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THE NORTH 30 FEET THEREOF FOR ROAD AS CONVEYED TO THE CITY OF REDMOND BY DEED RECORDED UNDER AUDITOR'S FILE NO. 5446197

SITUATE IN THE CITY OF REDMOND, COUNTY OF KING, STATE OF WASHINGTON.

EXHIBIT "B"
to
LEASE FOR EMERGENCY COMMUNICATIONS SYSTEM
Description of Premises

The leased Premises is legally described as:

A PORTION OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON:

EXCEPT THE NORTH 30 FEET THEREOF FOR ROAD AS CONVEYED TO THE CITY OF REDMOND BY DEED RECORDED UNDER AUDITORS'S FILE NO. 5446197

SITUATE IN THE CITY OF REDMOND, COUNTY OF KING, STATE OF WASHINGTON.

SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHEAST CORNER OF THE ABOVE DESCRIBED PARCEL;
THENCE S00°49'48"W ALONG THE EAST LINE OF SAID EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, A DISTANCE OF 279.71 FEET;
THENCE N88°20'56"W, A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING;
THENCE CONTINUING N88°20'56"W, A DISTANCE OF 111.50 FEET;
THENCE S01°39'04"W, A DISTANCE OF 49.50 FEET;
THENCE S88°20'56"E, A DISTANCE OF 111.50 FEET;
THENCE N01°39'04"E, A DISTANCE OF 49.50 FEET TO THE POINT OF BEGINNING.

Approximately 5,520 square feet.

And shall include the following:

Fenced area within the Premises of approximately 2,574 square feet, as generally depicted on Exhibit "C"

Vehicular Ingress/Egress, including a fire turn-around, between the fenced area and an existing roadway
170' in height monopole

One or more equipment shelters

Communication transmission, reception and power equipment

50KW Generator

2000 Gallon Diesel Fuel Storage Above Ground Tank

Utilities, including conduits, pedestals and other supporting facilities

EXHIBIT "C"
to
LEASE FOR EMERGENCY COMMUNICATIONS SYSTEM
Illustrated Premises

(Page 1 of 2)

